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Patent Law Offices of Heath W. Hoglund 256 Eleanor Roosevelt San Juan PR 00918

In re Application of

Munoz-Guerra, et al. : DECISION REFUSING STATUS

Application No. 10/606,321 : UNDER 37 CFR 1.47(a)

Filed: June 25, 2003

Atty. Dkt. No.: AUTO-0010 :
For: CONVEYOR BELT ASSEMBLY :

This decision is in response to the matition and an

This decision is in response to the petition under 37 CFR 1.47(a), filed March 3, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply  $\underline{\text{may}}$  include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed June 25, 2003 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed September 30, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (1), petitioners have failed to establish that effort has been made to reach the non-signing inventor at the non-signing inventor's last known address for presentation of the

complete application papers (specification, including claims, drawings, and oath or declaration). Petitioners allege that attempts to reach the non-signing inventor via telephone to arrange a time to have him sign the declaration and assignment have been unsuccessful.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers. Instead, petitioners have merely disclosed that telephone calls have been made to the non-signing inventor. Petitioners have set forth the non-signing inventor's last known address, however, petitioners have not established that any effort has been made to reach the non-signing inventor at this address.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a diligent effort was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. See, MPEP 409.03(d).

As to item (3), the required petition fee of \$200.00 has been charged to Deposit Account No. 50-1452.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition Commissioner for Patents P.O. Box 1450

Alexandria, VA 22313-1450

By facsimile:

(703) 872-9306

By hand:

U.S. Patent and Trademark Office

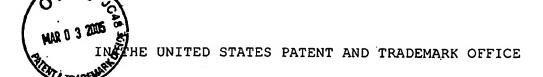
Customer Service Window

Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown

Petitions Attorney Office of Petitions



Applicant: Ignacio Múñoz-

Guerra, et al.

Group Art Unit: Unknown

Appln. No.: 10/606,321

Examiner: Unknown

Filed: June 25, 2003

PETITION UNDER 37 C.F.R. 1.47

For: Conveyor Belt Assembly

Assistant Commissioner for Patents Washington, D.C. 20231

## Sir:

This is a petition under 37 C.F.R. 1.47. The subject application was filed on behalf of Inventors Ignacio Muñoz-Guerra, Ariel Caraballo, Francisco Rosario, Carmelo Arroyo and Geovanny Lopez. Inventors Ignacio Muñoz-Guerra, Ariel Caraballo, Francisco Rosario and Carmelo Arroyo have executed a declaration for the application, and have assigned their entire interest to Autopak Engineering Corp. A copy of the declaration and assignment documents are enclosed herewith.

As set forth in the attached declaration of Ignacio

Muñoz-Guerra, this application is a continuation-in-part of

U.S. Patent No. 6,612,426, which has the same inventors as

this application. This application claims subject matter

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